

(26)

ISHAM, LINCOLN & BEALE
COUNSELORS AT LAW

1120 CONNECTICUT AVENUE, N. W.
SUITE 325
WASHINGTON, D. C. 20036
TELEPHONE 202-833-3730

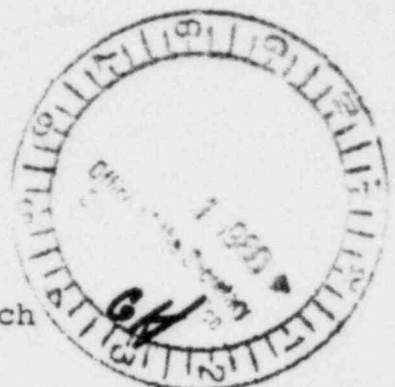
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CHICAGO OFFICE
ONE FIRST NATIONAL PLAZA
FORTY-SECOND FLOOR
CHICAGO, ILLINOIS 60603
TELEPHONE 312-558-7500
TELEX: 2-5288

November 24, 1980

Samuel J. Chilk
Secretary to the Commission
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Attention: Docketing and Service Branch



Public Service Company of Oklahoma ("PSO") submits the following comments in response to the NRC Notice of Proposed Rulemaking (45 Fed. Reg. 67099) published in the Federal Register on October 9, 1980, (hereinafter referred to as the "Notice"). This Notice, which is entitled "Plan to Require Licensees and Applicants to Document Deviations from the Standard Review Plan", would directly affect PSO's application (on behalf of Associated Electric Cooperative, Inc., Western Farmers Electric Cooperative and itself) for permits to construct and operate the Black Fox Station (U.S. NRC Docket Nos. STN-556 and 557) which consists of two 1150 Mwe boiling water reactors to be located near Tulsa, Oklahoma.

Regulatory action on PSO's construction permit ("CP") application, which has been pending before the NRC since the winter of 1975, has been suspended since March 28, 1979 -- the date of the Three Mile Island, Unit 2 ("TMI-2") accident. Since that date, no progress has been made by the Atomic Safety and Licensing Board toward issuing its decision on the pre-TMI hearing record (which was closed February 28, 1979) or by the NRC Staff toward reviewing PSO's commitment to implement the lessons learned from the TMI-2 accident with respect to the construction and operation of the Black Fox Station. On October 2, 1980, NRC requested comments on a proposal to establish post-TMI licensing requirements for pending construction permit applications. This proposal represents the first real action by NRC to resume consideration of the Black Fox application which has laid dormant before NRC since the TMI-2 accident.

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PSO submitted detailed comments on November 17 in response to this proposed rulemaking. In essence these comments urged that NRC abandon its support of Option 3 as defined in the October 2, 1980 notice, and instead adopt Option 1. Option 1 presents the most promise for minimizing undue delay in the consideration of the Black Fox application, and for the reasons explained in PSO's November 17 comments, is the only appropriate option because it properly places Black Fox Station in the same category as projects presently under construction as the last of the present generation of nuclear plants.

The October 2 notice also included a requirement that pending CP applicants document any deviations from the acceptance criteria set forth in the May 1980 revision of the NRC Standard Review Plan ("SRP") and NUREG-0718 prior to the issuance of any construction permit. This requirement was reiterated in the Notice published on October 9, and it is the purpose of these comments to re-emphasize PSO's strong opposition to imposition of this requirement as a pre-licensing condition. Simply stated this pre-licensing requirement would delay the consideration of the Black Fox application even further (in excess of one year) without the realization of any tangible health and safety benefit.

PSO estimates it will take a minimum of three months of engineering time merely to identify deviations from the SRP. Thereafter it will take an additional three to five months of engineering effort to review the Black Fox design -- now more than 50% complete -- to document the significance of and justification for such deviations and to prepare a PSAR amendment for submission to the Staff. PSO cannot estimate how long the NRC Staff will require to review the PSAR amendment given the present attitude of resource allocation (NRC does not even have a project manager assigned to Black Fox at this time). If adequate resources were made available in a timely manner, the NRC Staff would need a minimum of three months review and SER supplement preparation time.

Once the PSAR amendment is submitted to the NRC, the Staff will be forced to revisit areas of its technical evaluation that have been completed for the Black Fox application simply to ascertain formal conformity or nonconformity with the SRP. The NRC Staff would necessarily re-examine licensing decisions made in 1975 through 1979 concerning the efficacy of the Black Fox design. Undoubtedly the NRC would reaffirm that those decisions remain sound today simply because not much has changed other than the additional TMI-related requirements.

The NRC Staff's safety review on the Black Fox docket has been exhaustive. This review has spanned four years, and during the process the Staff has asked several hundred questions, answers to which have been documented in the PSAR. The guidance set forth in regulatory guides in both draft and final form and branch technical positions has been factored into the Black Fox docket. The Staff safety evaluation in the context of its TMI review is still ongoing and indeed the Black Fox application remains subject to the incorporation of any significant new safety requirement. This ongoing effort -- commenced in 1975 -- provides ample evidence that the NRC Staff has conducted and is conducting its safety evaluation in a responsible and effective manner. The redundant SRP review would add nothing to this impressive record.

As a pre-licensing requirement, the SRP review under NRC's Rules of Practice affords an open invitation to intervenors to inquire into each and every matter, and in any event imposes an obligation on NRC Boards to determine the adequacy of the Staff's safety judgments regardless of the depth and sufficiency of their review. This resulting delay is both inequitable and unwarranted with respect to the Black Fox docket, for this is not a virgin proceeding. Six weeks of safety hearings have been held and completed. The hearing record is closed. Although PSO expects to reopen the hearing record to consider TMI-related matters, the SRP review as a pre-CP requirement permits a total reopening of the entire safety review -- a result that has the effect of essentially starting over on the Black Fox licensing process. This result should not be authorized by the Commission without the strongest justification.

The previous Staff review of the Black Fox Station was conducted against the 1976 version of the SRP. This prior review was similar to that proposed in the Notice except that the Staff did not keep a neat scorecard of its review so that it could easily certify compliance with the SRP. If the Commission desires to change the NRC's current techniques for the safety evaluation of nuclear power facilities this new approach should be introduced for pending CP applications as a post-licensing consideration in the same manner proposed by the Commission for pending operating license applications and it should be done against the updated revised SRP. Another review for Black Fox against the same SRP utilized in 1976 as prescribed in the Notice seems pointless. That such a result is absurd appears to have been partially recognized by NRC because the Notice provides with respect to pending operating license applications

that the SRP review be conducted after the issuance of the operating license. Surely if doubt exists concerning the adequacy of the Staff's safety reviews, the Commission would have proposed the SRP review as a pre-license condition for pending operating license applications as well as for similarly situated CP applications. We believe the course of action proposed for pending OL applications is consistent with the public health and safety and interest. No sound reason exists to maintain a contrary policy for pending CP applications.

It should be emphasized that the Commission's proposal concerning the SRP review of pending CP applications involves solely matters of policy. No statute or regulation requires this action. Indeed, Section 110 of the NRC FY80 Authorization Act -- the genesis of the SRP requirement -- applies only to operating reactors, and since that fiscal year has expired and if it is true that NRC is no longer using FY80 monies, PSO doubts that Section 110 imposes any continuing legal obligation on NRC to persist in the SRP exercise. Nevertheless, PSO recognizes that the Commission may establish, as a matter of policy, different methods to facilitate its Staff's safety reviews. However, in effecting this change the Commission must exercise its discretion in a reasoned manner. The proposal to require the SRP review as a pre-license requirement for CP applications does not meet this test. The proposal should be changed to a post-licensing consideration.

PSO appreciates this opportunity to provide these comments. We request the opportunity to orally address the Commission during its further consideration of the Notice.

Sincerely,

PUBLIC SERVICE COMPANY OF OKLAHOMA

by Joseph Gallo
Joseph Gallo
One of its Attorneys